

## Message Text

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ORIGIN L-03

INFO OCT-01 ARA-06 ISO-00 EB-07 SSO-00 OPIC-03 H-02 COME-00

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DRAFTED BY L/ARA:DAGANTZ

APPROVED BY ARA:AFISHLOW

ARA/EP:JFKING

EB/IFD/OIA:TBRODERICK

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FM SECSTATE WASHDC

TO AMEMBASSY LIMA IMMEDIATE

C O N F I D E N T I A L STATE 192186

E.O. 11652: GDS

TAGS: EINV, EMIN, PFOR, PE, US

SUBJECT: MARCONA EXPROPRIATION

REF: A. LIMA 6547 B. LIMA 6544

1. PURSUANT TO AMBASSADOR'S SUGGESTION REFTELS, DEPUTY ASSISTANT SECRETARY FISHLOW DISCUSSED ISSUES RAISED WITH FURTH OF MARCONA PRIOR TO LATTER'S DEPARTURE, ALONG LINES TALKING POINTS GIVEN PARA 2 BELOW.

2. -- IN VIEW OF DISCUSSIONS WHICH HAVE BEEN TAKING PLACE IN LIMA BETWEEN EMBASSY OFFICIALS AND OFFICIALS OF MARCONA, WE THOUGHT IT WOULD BE HELPFUL FOR FURTH TO HAVE USG VIEWS ON SEVERAL ISSUES THAT HAVE ARISEN.

-- WITH RESPECT TO THE POSSIBILITY OF A GREENE-TYPE SETTLEMENT OF THE PROBLEM, MARCONA SHOULD BE AWARE THAT USG POLICY HOLDS THAT EXPROPRIATION DISPUTES ARE BEST SETTLED THROUGH DIRECT NEGOTIATIONS BETWEEN COMPANY INVOLVED AND THE HOST GOVERNMENT. THE USG WOULD NOT CONFIDENTIAL

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CONTEMPLATE DIRECT INVOLVEMENT IN THIS CASE UNLESS AND UNTIL IT BECAME OBVIOUS THAT DIRECT NEGOTIATIONS OFFERED NO PROSPECT OF SETTLEMENT.

-- THE USG'S INTEREST IN THIS CASE TO DATE HAS BEEN  
IN ENCOURAGING THE GOP TO RESUME DIRECT NEGOTIATIONS WITH  
MARCONA; WE HAVE NOT TAKEN ANY  
POSITION ON THE MERITS.

-- WE ALSO DOUBT WHETHER A  
GREENE-TYPE APPROACH WOULD WORK AGAIN IN PERU, GIVEN THE  
EXTRAORDINARY NATURE OF THAT APPROACH AND THE FACT THAT  
EXXON RECEIVED A PAYMENT UNDER THE GREENE SETTLEMENT  
AGAINST THE WISHES OF THE PERUVIAN GOVERNMENT.

-- THE QUESTION OF WHETHER MARCONA MAY BE CONSIDERING  
THE APPOINTMENT OF A WELL-KNOWN POWERFUL NEGOTIATOR TO  
REPRESENT MARCONA IN NEGOTIATIONS WITH THE GOP IS, OF  
COURSE, A COMPLETELY DIFFERENT MATTER, A STRATEGIC AND  
TACTICAL QUESTION WHICH, OF COURSE, IS UP TO MARCONA TO  
DETERMINE.

-- WE ALSO REALIZE IT IS UP TO MARCONA AS TO HOW IT  
HANDLES THE QUESTION OF WHETHER A SUIT OR SUITS BROUGHT  
BY MARCONA IN PERUVIAN COURTS IS DESIRABLE FROM A  
POLITICAL OR LEGAL POINT OF VIEW.

-- IN DECIDING SUCH ISSUES, WE ASSUME MARCONA WILL  
CONSIDER THE EFFECTS OF SUCH A SUIT ON MARCONA'S  
NEGOTIATING POSITION VIS A VIS THE GOP AND IN LIGHT OF  
MARCONA'S APPARENT BELIEF - SHARED BY THE USG - THAT THE  
BEST MEANS OF REACHING A MUTUALLY SATISFACTORY SETTLEMENT  
OF THE VARIOUS ISSUES IN THIS CASE IS THROUGH DIRECT  
NEGOTIATIONS.

3. FURTH SAID MARCONA WILL FILE COURT ACTION (REF A)  
IN ORDER TO GET DEPLETION ALLOWANCE ISSUE ON RECORD AS  
OFFSET TO ANTICIPATED GOP CLAIMS. WHEN HE ASKED ABOUT  
USG PARTICIPATION IN TALKS AS OBSERVER, FISHLOW ADVISED  
HIM THAT AT LEAST FOR TIME BEING USG DID NOT REPEAT NOT  
PLAN TO HAVE EMBASSY OFFICER PRESENT. KISSINGER  
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